Remarks/Arguments

The Examiner is thanked for the Office Action of May 12, 2008, and for his reconsideration of the claims. The arguments and amendments presented in the last response were rendered moot, in view of the new art and rejections applied by the Office. This response includes additional clarifying amendments, as well as cancellation of certain claims to enable the office to focus on specific embodiments believed to be patentable. The Applicants reserve the right to reintroduce claims of similar scope as the cancelled claims in a later filed continuation application, if so desired.

Claims 1-35 and 38-53 were rejected under 35 USC 103(a) as being unpatentable over Applicants Admitted Prior Art (AAP) in view of Uri ("Workload management-many questions", IT Resource Forums, 7-10-2002, XP002290900, pp, 1-4, http://forums1.itrc.hp.com/service/forums/questionanswer.do?admit+716493758+109118023 3157+28353475&threadID+25550). This rejection is respectfully traversed.

For purposes focusing on the new rejections and comments regarding the new art, the Applicants will address the newly cited art. As amended, however, the claims now include recitation that each workload whose resource usage exceeds its respective allotment remains partially operable during said paging out of its respective range of computer resources. Further stated, paging a portion of said physical memory assigned to said workload out of said physical memory and said decreasing usage does not halt operation of said workload.

The Office relies on Uri, as teaching the functionality of the claimed invention. The Applicants traverse the characterization of Uri for two reasons. Firstly, Uri is simply making statements about what HP-UX 11i ("HP technology") support, without specific specificity. Secondly, even if Uri makes reference to XP-UX 11i, its is submitted that the HP technology fails to operate in a way that would teach or suggest the now claimed invention. The HP technology defines a component in its process resource manager (PRM) product that deals with workloads, however, the HP technology operates in a fundamentally different manner.
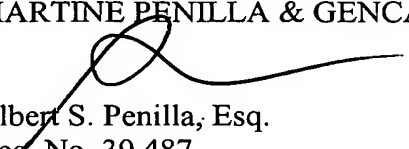
That is, the HP technology utilizes a stop signal to arrest a process when it exceeds its memory limit, and it allows general kernel memory management to move the process's memory from core to disk, and allow other processes the use of the core memory. Once the memory threshold has dropped, a continue signal allows the process to resume, with requests for memory being honored, and the data moved back from disk to core on an as-needed basis. This mechanism means the process *does not continue* during periods when it has exceeded its memory limit. The claimed invention does not suffer from these drawbacks, as victim process are not required to stop, but instead pages are marked as movable to swap in proportion to its exceeding of the limit. As claimed, decreasing usage does not halt operation of said workload.

It is submitted that the newly amended claims are not taught, nor suggested by the cited art of record. Accordingly, the Office is respectfully requested to withdraw the Section 103 rejection. To allow the Office sufficient time to reconsider the claims, the Applicants submitted an RCE along with this response.

A Notice of allowance is therefore respectfully requested.

If the Examiner has any questions concerning the present amendment, the Examiner is kindly requested to contact the undersigned at (408) 749-6903. If any other fees are due in connection with filing this amendment, the Commissioner is also authorized to charge Deposit Account No. 50-0805 (Order No SUNM453). A duplicate copy of the transmittal is enclosed for this purpose.

Respectfully submitted,
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